

Remarks

I. Introduction

It is respectfully requested that this Amendment After Final Rejection be entered and made of record. It is believed that the following amendments and remarks place the application in a form for allowance. The following amendments and remarks at least place the claims in a better form for appeal. No new matter is presented, as such the amendment is proper under 37 C.F.R. § 1.116.

Claim 1 is presented for examination and has been amended to set forth that the neutral complexes produced are water soluble. No new matter has been added. Since the claim now simply explicitly sets forth an inherent property of the compounds, the amendment is not narrowing.

II. Claim Objection

Claim 1 has been objected to on the basis that the phrase "1:1 a neutral complex" is grammatically incorrect. Applicants have now corrected this grammatical error, thereby alleviating this objection. Since the amendment was made merely for grammatical purposes, it cannot be considered narrowing.

III. Claim Rejections - 35 U.S.C. § 103(a)

Applicants note for the record that the Examiner has withdrawn the rejection of claim 1 under 35 U.S.C. § 102(b) as being clearly anticipated by Cardinal, U.S. Patent No. 2,849,468.

Claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over Cardinal, U.S. Pat. No. 2,849,468. The Examiner argues that if the skilled artisan in the art had desired to produce a 1:1 neutral complex of zinc and glutamic acid different from the 1:1.5 neutral complex from Example III of the prior art, it would have been obvious to the skilled artisan to be motivated to produce such a complex selectively and substantially as an alternative by using the teachings of the Cardinal reference because glutamic salt is in demand for the purpose of flavor enhancement. The Examiner further argues that the skilled artisan would expect the formation of the 1:1 neutral complex of zinc and glutamic acid to be successful as the guidance (see col. 4, lines 4-7) shown in the prior art. Applicants respectfully traverse this rejection.

The Examiner argues that had the skilled artisan "desired" to produce a 1:1 neutral complex of zinc and glutamic acid, it would have been obvious for the skilled artisan to produce

such a complex selectively and substantially as an alternative by using the teachings of the Cardinal reference. Here, the Examiner has attempted to create a case for obviousness in reverse fashion. The Examiner must first provide a suggestion or motivation for one skilled in the art to modify the teachings of the cited art to synthesize the claimed compounds. MPEP § 2142. Only then has the Examiner established a *prima facie* case of obviousness. The Examiner has not established such a case.

The disclosed purpose of Cardinal is the recovery of glutamic acid "as an insoluble salt from crude or dilute aqueous solutions." (Col. 1, lines 40-42)(Emphasis supplied). In this respect, Cardinal notes the previous difficulties in the art involved in removing insoluble glutamic acid salts, including the fact that precipitation of the salts was either not complete or the salt was highly contaminated by impurities present in the crude solutions. (Col. 1, lines 45-52). To resolve these problems in the art, Cardinal provides processes for the separation of the glutamic acid present in aqueous solutions containing it. (Col. 1, lines 62-64).

Thus, the methods by which Cardinal prepares zinc salts of glutamic acid relate only to the isolation of insoluble zinc glutamate salts from an aqueous solution. In stark contrast, the 1:1 neutral complexes of zinc and glutamic acid of the present invention are "readily soluble in water" (as now explicitly set forth in the claim), and therefore provide better bioavailability of the essential metals from these complexes than these complexes from inorganic sources and other organic trace metal complexes currently available. (Spec. p. 7). These complexes have commercial potential because they are stable and can be obtained by practical methods at a reasonable cost. (Spec. p. 7).

Not only has the Examiner not provided a suggestion or motivation in the art to modify Cardinal to prepare water-soluble salts in the manner claimed by Applicants but, even if Cardinal combined zinc and glutamic acid in Applicants' claimed 1:1 ratio, Applicants' claimed water-soluble salts would still not be formed using Cardinal's disclosed technique of precipitating zinc glutamate salts from an aqueous solution. In this regard, Applicants' claimed water-soluble salts could not be formed or isolated since they would ionize in the aqueous solutions used by Cardinal and could therefore not be precipitated. Instead, only the zinc glutamate and zinc magnesium glutamate produced in accordance with Cardinal's invention that are "very insoluble

"in water" can be selectively and substantially completely precipitated from very dilute and crude solutions. (Col. 4, lines 8-12; see also claim 1).

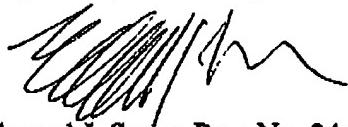
Thus, contrary to the Examiner's argument, even if a skilled artisan had combined one mole of zinc to one mole of glutamic acid, using the teachings of the cited prior art they would still would not have been able to synthesize Applicants' claimed water-soluble, neutral complexes. Further, there would not have been an incentive to modify the teachings of Cardinal to synthesize Applicant's compounds in the manner claimed since Cardinal provides no teaching or motivation to either synthesize water-soluble salts, or provide a means for doing so based on its disclosed precipitation method. Claim 1 is therefore not rendered obvious by Cardinal and Applicants respectfully request that this ground of rejection be withdrawn.

IV. Conclusion

It is believed the application is in a *prima facie* condition for allowance. Allowance is therefore respectfully requested.

It is not believed any fees or extensions of time are due in connection with amendment. If this is incorrect, please consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Respectfully submitted,



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